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June 3, 1985

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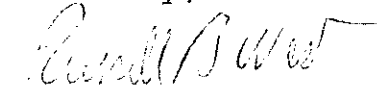
Dear Ray:

As promised, I am enclosing for your review a proposed intergovernmental forfeiture resolution. I have left the percentages blank, but I would suggest that the city get 25% and the county get 75%. I make this suggestion in view of the fact that all proceeds that the county received would be deposited in a law enforcement fund. All law enforcement agencies in Union County, including the La Grande Police Department, could make grant application to the fund's board of directors for any law enforcement need. Of course the percentages are negotiable.

I would also suggest as part of our negotiations regarding the Charles Mayer vehicles that the City of Elgin adopt such a joint forfeiture resolution.

Let me know your thoughts on this.

Sincerely,



Russell B. West
District Attorney

RBW/md

RESOLUTION NO. _____

A JOINT RESOLUTION AUTHORIZING
THE MAYOR AND THE UNION COUNTY COURT TO ENTER INTO
AN INTERGOVERNMENTAL AGREEMENT WITH UNION COUNTY
FOR THE ENFORCEMENT OF COUNTY ORDINANCE NO. 1985-6
WITHIN THE CITY OF LA GRANDE.

THIS AGREEMENT is entered into between the City of La Grande, a municipal corporation, hereinafter referred to as City, and Union County, hereinafter referred to as County, with the terms and conditions as set forth herein.

WHEREAS Union County has adopted Ordinance 1985-6 (incorporated as Exhibit A herein), which provides for the civil forfeiture of real, personal and tangible property, which has been used to facilitate the commission of certain crimes; and

WHEREAS Ordinance 1985-6 authorized civil action to enforce such forfeiture; and

WHEREAS, the City Council and the County Court find that it is appropriate to cause the forfeiture of property that is seized from arrested and convicted persons which constitutes the proceeds or instrumentalities of crime in order to undercut the perpetuation of more crime and in order to protect the safety and welfare of La Grande residents; and

WHEREAS, pursuant to ORS Chapter 190 the parties wish to enter into this intergovernmental agreement in order to memorialize the obligations of the parties and to effectuate the application of Ordinance 1985-6 within the City of La Grande; now, therefore,

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF LA GRANDE AND THE UNION COUNTY COURT, in consideration of the mutual covenants contained

herein, the parties agree as follows:

1. That Union County ordinance No. 1985-6, which is attached as Exhibit A and incorporated herein, shall apply and be enforced within the boundaries of the city the same as if the ordinance were an ordinance of the city. The term Union County appearing in Ordinance No. 1985-6 shall be deemed to include the city.

2. The initial term of this agreement shall commence upon the date of its execution by the city and expire one year from that date. Upon the expiration of the initial term and any subsequent terms this agreement shall be automatically renewed for successive one year terms unless written notice of termination is served by one party on the other thirty (30) days or more prior to the anniversary date of the current year.

3. Property seized within the boundaries of the City shall be disposed of as follows: A valuation of the property shall be established either by mutual agreement between the parties or by an appraiser acceptable to both parties. The county shall be entitled to its reasonable costs and expenses in maintaining and storing the seized property pending the forfeiture and its attorney fees reasonably incurred in the forfeiture proceedings. The remaining proceeds shall be distributed with the city receiving 33 $\frac{1}{3}$ % and the county receiving 66 $\frac{2}{3}$ %. If property other than cash is involved and if both parties agree to a division of the property, the property itself will be distributed to the parties in the above percentages. Otherwise, the seized property shall be sold at public auction and after payment of liens and expenses of the sale, the proceeds shall be distributed to the parties in the above percentages.

ADOPTED by the Union County Court this _____ day of _____, 1985.

Earle C. Misener, County Judge

Mike Caldwell, County Commissioner

Marie Lester, County Commissioner

ADOPTED by the La Grande City Council this _____ day of _____, 1985.

Suzan Turley, Mayor

BEFORE THE UNION COUNTY COURT
ORDINANCE NO. 1985-6

An ordinance providing for the civil forfeiture of real, personal and intangible property which facilitates the commission of certain crimes; and authorized civil action to enforce such forfeiture.

Union County ordains as follows:

SECTION I
TITLE

This chapter shall be known as the forfeiture ordinance of Union County and may be so pleaded and referred to.

SECTION II
POLICY AND PURPOSE

A. The Union County Court finds that:

1. Property that is seized from arrested persons which constitutes the proceeds or instrumentalities of a crime must generally be returned to the criminal upon disposition of the charge.
2. These instrumentalities and proceeds are often used to again commit the same or another crime and the return of the property thus serves to encourage and perpetuate the commission of crime in Union County.

B. The County Court therefore declares that to protect the safety and welfare of Union County residents it is in the best interest of Union County to:

1. Cripple illegal drug trafficking and narcotics activities within this County by depriving narcotics dealers, and those persons dealing with them, of the instrumentalities and proceeds of their trade; and
2. Otherwise deter illegal activity and remove the operating instrumentalities, profits and proceeds of certain crimes from criminals; and
3. Use the forfeited property to further fund law enforcement and criminal functions.

SECTION III
DEFINITIONS

As used in this ordinance, unless the context requires otherwise:

- A. "Controlled substances" are those defined in ORS 475.005(6) (1983 ed.) except that this shall not include less than one avoirdupois ounce of marijuana.
- B. "Deliver or delivery" is that defined in ORS 475.005(8) (1983 ed.).
- C. "Facilitate" means that the property must have some substantial connection to, or be instrumental in, the commission of the underlying illegal activity which this ordinance seeks to prevent.
- E. "Illegal activity" means:
 - 1. The manufacture or delivery of controlled substances; or
 - 2. The possession of controlled substances with the intent to deliver.
- F. "Manufacture" is that defined at ORS 475.005(14) (1983 ed.).
- G. "Marijuana" is that defined at ORS 475.005(15) (1983 ed.).
- H. "Possession of controlled substances with the intent to distribute" is that defined at 21 USC section 841(a)(1) (1976 ed.).

SECTION IV
FORFEITURE

A. Any person who engages in illegal activity within Union County, shall forfeit to Union County the following property, and no property right shall exist in them:

- A. All controlled substances which are intended for or have been manufactured or delivered as defined in Section III above.
- 2. All raw materials, products, containers, equipment, books, records, research materials (including formulas, microfilms, tapes and data) of any kind which are used, or are intended for use to manufacture, compound, store, process or deliver any controlled substances.
- 3. All conveyances, including aircraft, vehicles or vessels

which are used to manufacture or deliver or in any manner to facilitate the manufacture or delivery of any controlled substance or any such conveyance which is used to transport or conceal any controlled substance.

4. All monies, negotiable instruments, securities or other things of value furnished or exchanged or intended to be furnished or exchanged by or to any person to facilitate any illegal activity and all proceeds and profits traceable to such furnishment, exchange or illegal activity.

5. All proceeds, profits and things of value traceable to any illegal activity.

6. All real property used to manufacture any controlled substance. This section shall not apply to residential real property which is used to facilitate the manufacture of less than one pound of marijuana when dried.

B. This ordinance shall not apply to those unlawful acts defined in ORS 166.720(1) and (2) (1983 ed.).

SECTION V SEIZURE

A. Any property subject to forfeiture to Union County under this ordinance may be seized by any police officer on behalf of Union County without issuance of court process when:

1. The seizure is incident to an arrest or search under a search warrant or an inspection under an administrative search; or

2. The property subject to seizure has been the subject of a prior judgment in favor of Union County in a forfeiture proceeding under this ordinance; or

3. A police officer lawfully seizes the property under ORS 133.525 to 133.703 (1983 ed.).

B. Once forfeiture proceedings have been filed property claimed in the pleadings may be seized with court order pending the outcome of the case.

SECTION VI INSTITUTION OF LEGAL PROCEEDINGS

A. In the event of a seizure under this ordinance, the District Attorney acting in the name of the County, may institute a forfeiture proceeding to obtain a judgment of forfeiture against

the seized property.

B. The proceedings shall be instituted promptly and in accordance with the Oregon Rules of Civil Procedure and the Oregon Rules of Evidence relating to civil actions. Within thirty days after the seizure, the District Attorney shall file the complaint and initiate an application for a temporary restraining order restraining the return of the seized property to the defendant or property owner. The defendant or the owner of the property may demand a trial by jury in any civil action brought pursuant to this section.

C. The District Attorney shall be entitled to deduct from the proceeds any attorney fees, costs and expenses incurred in the litigation.

SECTION VII DISPOSITION OF PROPERTY

A. Prior to obtaining any forfeiture judgment, any money, securities and negotiable instruments that are not retained by the Sheriff for evidentiary purposes shall be deposited with the Union County Treasurer pending the outcome of the forfeiture proceedings.

B. The seized property shall be kept in the custody of Union County. The District Attorney may hold the property for Union County or deliver it to the Sheriff of Union County for safe keeping until a forfeiture judgment is obtained.

C. When a judgment of forfeiture is obtained under this ordinance, the property shall be disposed of as follows:

1. The forfeiture proceeds shall be sold at public auction by the sheriff to fund a law enforcement investigative fund in the amount of \$ 50,000.00 . This fund shall be administered by the Union County Law Enforcement Investigative Fund Board which shall consist of the Union County Sheriff, District Attorney, and a representative from the Oregon State Police. The Board shall administer the fund in such a manner as to provide all local non-federal law enforcement agencies operating within Union County money for crime investigation including but not limited to drug buys, sting operations, undercover drug operations, and investigative costs. The Board shall have complete discretion to decide which operations to fund and in what amounts. As an alternative to selling the forfeiture proceeds at public auction, a vehicle or other property may be assigned to the fund for use by law enforcement agencies. The value of such property will be considered in determining

the level of the fund. Revenues and expenditures relating to this fund will be recorded under a line item entitled "law enforcement fund" in the District Attorney's budget. However this fund will be separate and distinct from the county general fund and accrued amounts will carry over from one fiscal year to the next, provided the total amount does not exceed \$ 50,000.00. The District Attorney will submit a proposed budget for each fiscal year which will reflect estimated revenues and expenditures. The forfeiture proceeds will be sold at public auction or assigned to the fund's use until the fund contains \$ 50,000.00 or property of equal value, or a combination thereof. At that point the remaining forfeiture proceeds will be distributed as follows:

a. At the discretion of the County Court the forfeited property (not including money) may be retained for official use. When the County Court determines that the property will no longer be used for official use, it shall be sold in accordance with b and c below.

b. Property (except money, securities and negotiable instruments) which is not required by law to be destroyed and which is not harmful to the public shall be sold at a public auction by the Sheriff. The Sheriff shall deduct from the proceeds the expense of keeping the property and the cost of the sale.

c. The proceeds of any sale, and any money, securities or negotiable instruments shall be divided equally between the County's general fund, the Union County District Attorney's office, and the Union County Sheriff's office for law enforcement purposes.

SECTION VIII NON-CONSENSUAL USE OF PROPERTY FOR ILLEGAL ACTIVITY

No property shall be forfeited under this ordinance to the extent of the interest of an owner who did not consent to or was not aware of the use of the property in the illegal activity.

SECTION IX SEPARABILITY

If any section, clause or phrase of this ordinance, or its application to any statute, is determined by any court of competent jurisdiction to be invalid or unenforceable for any reasons, such determination shall not affect the validity of the remainder of the ordinance or its application to any other statute, but shall continue to be in effect.

SECTION X
REVOCATION OF PRIOR FORFEITURE ORDINANCE

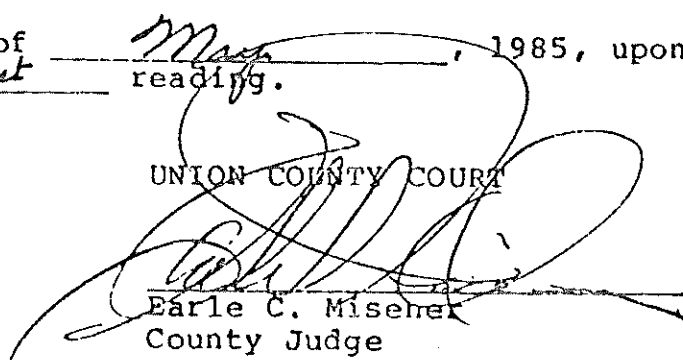
By adopting this ordinance the Union County Court expressly revokes the forfeiture ordinance which was adopted on March 6, 1985, as Union County Ordinance number 1985-3. However, any seizures made prior to this date pursuant to the original forfeiture ordinance (#1985-3) shall be controlled by that original ordinance.

SECTION XI
EMERGENCY ADOPTION

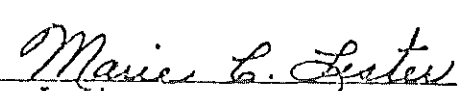
Whereas an emergency does hereby exist for the immediate need to adopt a forfeiture ordinance for the County of Union, this ordinance is hereby adopted and shall be in full force and effect upon adoption.

ADOPTED this 15 day of May, 1985, upon
passage following its 1st reading.

UNION COUNTY COURT


Earle C. Misener
County Judge

Mike Caldwell
Commissioner


Marie Lester
Commissioner